JAMES M. CHUDNOW

IBLA 82-997 Decided January 18, 1983

Appeal from decision of the Utah State Office, Bureau of Land Management, requiring the offeror for noncompetitive acquired lands oil and gas lease, U 48911, to produce certain title evidence.

Reversed and remanded.

1. Administrative Practice -- Mineral Leasing Act for Acquired Lands: Generally -- Oil and Gas Leases: Acquired Lands Leases

An acquired lands oil and gas lease offeror may properly be required to furnish the Bureau of Land Management with certain title information from the county recorder's offices as a precondition to lease issuance if the Bureau has insufficient title information. However, where the oil and gas plat bears the notation that the United States holds a 50 percent mineral interest, it is unreasonable for the Bureau to require the offeror to submit information from the county records to establish the 50 percent mineral interest in the United States without first attempting to verify its records.

APPEARANCES: James M. Chudnow, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

James M. Chudnow has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated May 14, 1982, 1/ which pertained to offer U 48911. In its decision BLM stated:

1/ An earlier decision had been issued on Feb. 22, 1982, wherein BLM had also requested evidence, specifically: "A proper description * * * for the lands applied for in Sec. 19, T. 11 S., R. 1 E., SLM, Utah, before further action can be taken."

In response to that decision Chudnow stated:

> Inasmuch as the file for Public Law 760-13 has been misplaced, 2/ you must submit information from the County records sufficient for the Regional Solicitor to prepare a title opinion. The "pencil abstract" should list all transactions made from the time of patent from the United States and how the U.S. acquired the 50% mineral interest. 3/

In his statement of reasons for appeal, Chudnow asserts that the BLM's own plat maps show that the Federal Government has a 50 percent mineral interest in the land in question. Chudnow contends that he should not have to bear the financial expense of providing proof of ownership because the file was misplaced by the Government and "because there must be some duplicate information in the Government's own files that would support the plat maps showing a 50 percent Government ownership." Chudnow requests that the Government seek information through the various agencies to provide the information requested as to ownership.

A similar situation was dealt with by this Board in Jean Oakason, 22 IBLA 33 (1975) in which we stated:

> [1] The lease offers were all filed under the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 351 et seq. (1970). The only information the offeror furnished regarding title to the oil and gas resources was a statement in the offers that the United States' interest was 50 percent. The oil and gas status plats only reflect that the land was patented by the United States. * * *

"Regarding the Sec. 19 lands, I have tried to get a copy of 'PL-760-13', in order to provide you with 'Metes & Bounds' description of the irregular portion * * * however, BLM records show the whole thick file went to the Solicitor on 3-21-(81) * * * I called the Solicitor, spoke to Sylvia there, & she advised the following: The file went back to the BLM, they sent it back to the 'Solicitor' for a court case -- &, the file is currently lost ('Misplaced') * * *

"* * * Thus, I cannot provide you with more info than the above, currently * * * (if that is not sufficient, then you can consider this letter a withdrawal of acreage filed in section 19, so you can get on with work towards issuing a lease on the balance of the filing) * * * [Emphasis in original]."
BLM apparently did not consider Chudnow's response a withdrawal.

2/ Upon inquiry to BLM, the specific law at issue is the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1000 et seq. (1976). Various sections of that Act were subsequently repealed by the Act of Aug. 8, 1961, 75 Stat. 318. 7 U.S.C. § 1006b (1976), provides for cancellation of loans upon default and for the disposition of the land for the satisfaction of the indebtedness secured by the mortgage.

3/ The term "pencil abstract" is neither widely understood nor self-defining.

> If the lands had never been conveyed from the United States and retained the status of public lands, most matters affecting the status of the oil and gas deposits would be reflected upon the public land records maintained by BLM. With acquired lands, however, the status question sometimes becomes complex. Lands, including oil and gas resources therein, may be acquired by other federal agencies without any knowledge by the BLM and without any notation ever appearing on BLM status records. It may seem anomalous that BLM has little or no title information about resources it may be authorized to lease under the Mineral Leasing Act for Acquired Lands, but such title information is often only available in the local governmental recording office, or possibly in the records of the agency which acquired the lands.
>
> We mention this distinction between public lands and acquired lands because it puts into better perspective BLM's requirement that the offeror furnish an abstract from the county recorder's office. If BLM has insufficient title information, we believe BLM, in administering the Secretary's discretionary authority to lease acquired lands, may properly require an offeror to furnish information from the county recorder's office as a precondition to lease issuance in order to help it to ascertain title status.

Id. at 34-35.

We find the present case distinguishable from Oakason. In this case BLM must have had sufficient information to note the land in question on the oil and gas plat with the reference "1/2 Min. only." There was no such reference in the Oakason case. Thus, we must agree with appellant that there must be some duplicative information, other than the "Public Law 760-13" file, available to BLM that would support the plat map status. BLM cannot arbitrarily put the burden of supplying such information on the offeror.

While we are in agreement with the rationale set forth in the Oakason case, under the circumstances of this case it was unreasonable for BLM to require appellant to submit information from the county records in order to establish the 50 percent interest in the United States without first attempting to verify its records. If BLM cannot do so, and it entertains any doubt as to the interest of the United States, it may then request information from the offeror. If the offeror at that time fails to supply the information, BLM may properly reject the offer. 4/

BLM's decision requiring that information is reversed.

4/ Even if the offeror submits requested information, if the extent of the Federal mineral interest remains in doubt, no lease should issue. See SOCO 1980 Acreage Program, 68 IBLA 132 (1982), for a discussion of problems arising concerning fractional interest leases.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed.

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Bruce R. Harris
Administrative Judge

We concur:

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Edward W. Stuebing
Administrative Judge

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Gail M. Frazier
Administrative Judge